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August 11, 2022

Application granted. Update
due 10/10/22.

BY ECF

Honorable Cathy Seibel
United States District Judge
Southern District of New York
300 Quarropas St.
White Plains, NY 10601

SO ORDERED.


CATHY SEIBEL, U.S.D.J.

8/15/22

**Re: *United States v. Jose Rivera*, 12 Cr. 169 (CS)
Jose Rivera v. United States, 16 Cv. 4983 (CS)**

Dear Judge Seibel,

I write to provide an update regarding Mr. Rivera's pending motion under 28 U.S.C. § 2255 based on *Johnson v. United States*, 135 S. Ct. 2551 (2015). On July 13, the Court granted our request for additional time for the parties to confer regarding the impact of the recent decision of the Supreme Court in *United States v. Taylor*, No. 20-1459, 2021 WL 2742792, at *1 (U.S. July 2, 2021). See Dkt. No. 43.¹

The parties are not yet in agreement regarding the appropriate resolution of Mr. Rivera's petition. We have conferred and believe that our positions will be informed by the Second Circuit's decision in the pending case, *United States v. Savoca*, 20-1502. In that case, the defense filed its petition for rehearing/rehearing *en banc* on July 21, 2022 and the Circuit directed the government to respond by August 29, 2022. Therefore, we ask for the Court allow the parties to provide another update regarding the fate of Mr. Rivera's petition in 60 days.

Thank you for your consideration.

Respectfully submitted,

/s/

Sylvie Levine
Rachel Martin
Ben Gold
Federal Defenders of New York

cc: Assistant United States Attorney Ryan Allison

¹ The docket citations correspond to the criminal case number, 12 Cr. 169 (CS).